

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD**  
**March 13-17, 2006**

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
3-13	EX EX	78344449 78344467	Slater	Quinn* Hairston Zervas	2(d)	Refusal Affirmed in both cases		"THE LAKESHORE GUY" and "LAKESHORE PLUS" [both marks for real estate services, namely, real estate agency services for sellers and buyers of real estate]	"LAKESHORE INVESTMENT CORPORATION" [real estate and property management and leasing services]	Meier	No
3-13	EX EX	76142267 76142450	First Union Corporation	Quinn Hairston* Bucher	2(d)	Refusal Affirmed in both cases on the basis of both cited registrations		"COMPASS ADVISORY PROGRAM" and "COMPASS PORTFOLIO PROGRAM" [both marks for investment advice, namely, annuity counseling, mutual fund counseling and investment counseling]	2 cited registrations, owned by different entities: "COMPASS-G" (and design) [managing group annuity funds for qualified and non-qualified retirement plans] and "COMPASS BROKERAGE" (and design incorporating the letter "C") [financial services, namely, stock and mutual fund brokerage services, investment banking services, financial planning services and asset management services]	Carroll	No

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3-13	EX	78975072	Nutra-ceutical Corporation	Walters Bucher* Kuhlke	whether applicant's mark is registrable on the Supplemental Register for certain of its goods and services in Classes 31 and 35 [genericness]	Refusal Affirmed as to both classes [Note: The examining attorney did not refuse registration for certain of applicant's goods and services in Classes 31 and 35, viz., living natural plants and live flowers, pet food, and retail bakery shops.]		"FRESH ORGANICS" [in Class 31: fresh fruits and vegetables; unprocessed cereals; unprocessed herbs; unprocessed beans; unprocessed rice; unprocessed grains for eating; unpopped popcorn; bulk fresh nuts; raw nuts; in Class 35: retail health food store services]		Nadelman	No
3-14	EX	78187142	Fresh Mexi-Cali Grill	Seeherman* Hohein Walters	2(d)	Refusal Affirmed		"FRESH MEXI-CALI GRILL" (and design) [restaurant and catering services]	"MEXICALI GRILL" [restaurant services]	Awrich	No

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3-14	EX	76089226	Epi-genomics AG	Hairston Drost* Zervas	2(e)(1)	Refusal Affirmed in Classes 1,5, 9 and 42; Refusal Reversed in Class 38		<p>"5<sup>TH</sup> BASE GENOMICS"</p> <p><i>[in Class 1: diagnostic reagents for scientific purposes, including forensic examination; and other goods;</i></p> <p><i>in Class 5: diagnostic reagents for medical purposes for diagnosing inflammations, infections, diseases of the central nervous system, heart, circulation, neurologic, endocrine, autoimmune and genetic diseases and cancers, etc.; and other goods;</i></p> <p><i>in Class 9: laboratory equipment, namely, an apparatus for testing a sample, for demonstrating the presence of analytical elements in samples and to determine types of samples in connection with distribution patterns; and other goods;</i></p> <p><i>in Class 38: providing multi-user access to the Internet;</i></p> <p><i>in Class 42: research and development services for third parties in the field of diagnostic chemicals, forensic methods, etc.; and other services]</i></p>		Clark	No

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3-15	EX	78290739	Griffith Laboratories International, Inc.	Quinn Kuhlke Walsh*	2(d)	Refusal Affirmed as to the cited registrations for ULTIMA PREMIUM and ULTIMA SUN but not as to the cited registration for CATANIA ULTIMA		"ULTIMA" [food flavorings, not being essential oils]	<i>3 cited registrations, the last two of which are owned by the same entity:</i> "ULTIMA PREMIUM" [shortening and cooking oils]; "ULTIMA SUN" [sunflower oils]; "CATANIA ULTIMA" [edible oils]	Oslick	No
3-16	OPP	91155876	Bliss World LLC v. Lady Bliss, LLC	Hohein Hairston* Walters	2(d)	Opposition Sustained	"BLISS" [health spa services]; "BLISS SPA" [cosmetics, namely, skin care moisturizer, body scrubs, skin soap, shower gel, and body firming gels and lotions]; "BLISS" [body firming gels and lotions, shower gels and lotions, hair shampoo, body oil and perfume]	"LADY BLISS" (and design) [personal lubricants, namely, body oil, massage oil, nipple creams, body creams, body lotions, body nipple blush and cosmetic body paints, soaps, bubble bath, perfumes, shampoos, conditioners, body powders and bath powders]			No
3-17	EX	76393583	Midwest Bus Corporation	Hohein Bucher* Walsh	whether applicant's mark is registrable on the Supplemental Register [genericness]	Refusal Affirmed		"BYK-RAK" [racks for vehicles for use in transporting bicycles, in particular, a rack for a bus transporting bicycles]		Schrody	No

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3-17	OPP (SJ)	91162008	Grand Canyon West Ranch, LLC v. Hualapai Tribe	Seeherman Walters Kuhlke [Opinion "By the Board" (Greenbaum)]	whether non-use as to some of the services recited in the application renders entire application void, in the absence of a pleading of fraud	Summary judgment granted to opposer as to services for which applicant admits non-use; summary judgment denied as to remaining services		"GRAND CANYON WEST" [airport services; air transportation services; arranging for recreational travel tours and providing related transportation of passengers by air, boat, raft, rail, tram, bus, motorized on-road and off-road vehicles, non-motorized vehicles featuring bicycles, and domestic animals]			Yes
3-17	EX	78325106	Bioneruix Corporation	Seeherman Bucher Zervas*	2(d)	Refusal Affirmed		"AMORYN" [nutraceuticals for use as a dietary supplement, namely, a dietary supplement for depression and anxiety]	"AMORIN" [nutritional supplements for enhancement of libido and sexual performance]	Vanston	No

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